



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

NOV 02 2016

**CERTIFIED MAIL 7009 1680 0000 7647 3422**  
**RETURN RECEIPT REQUESTED**

REPLY TO THE ATTENTION OF:

Ms. Margaret Pibulldhanapatana  
Health, Safety, and Environmental Leader  
Honeywell Burdick and Jackson  
1953 South Harvey Street  
Muskegon, Michigan 49442

Re: Notice of Violation  
Compliance Evaluation Inspection  
EPA ID Number: MID072575731

Dear Ms. Pibulldhanapatana:

On July 19, 2016, representatives of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality inspected the Honeywell Burdick and Jackson ("HBJ") facility located in Muskegon, Michigan. As a large quantity generator of hazardous waste, HBJ is subject to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (RCRA). The purpose of the inspection was to evaluate HBJ's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed for your reference.

Based on information provided by HBJ, on EPA's review of records pertaining to HBJ, and on the inspector's observations, EPA has determined that HBJ has unlawfully stored hazardous waste without a license or interim status as HBJ failed to comply with conditions for a license exemption under Mich. Admin. Code. r. 299.9306(1)-(3) [40 C.F.R. § 262.34(a)-(c)].

Many of the conditions for a RCRA license exemption are also independent requirements that apply to licensed and interim status hazardous waste management facilities that treat, store, or dispose of hazardous waste ("TSD requirements"). When a hazardous waste generator loses its license exemption due to a failure to comply with an exemption condition incorporated from Mich. Admin. Code. r. 299.9601(1)-(3) and 299.11003(1)(p) and (q), the generator: (a) becomes an operator of a hazardous waste storage facility; and (b) simultaneously violates the corresponding TSD requirement. The exemption conditions identified in the paragraphs below are also independent TSD requirements incorporated from Mich. Admin. Code. r. 299.9601(1)-(3) and 299.11003(1)(p) and (q). Accordingly, each failure of HBJ to comply with these conditions is also a violation of the corresponding requirement in Mich. Admin. Code. r. 299.9601(1)-(3) and 299.11003(1)(p) and (q) [40 C.F.R. part 265] (if the facility should have fully complied with the requirements for interim status), or Mich. Admin. Code. r. 299.9601(1) and (2) and 299.11003(1)(m) – (o) [40 C.F.R. part 264] (should the facility have been licensed).

**STORAGE OF HAZARDOUS WASTE WITHOUT A LICENSE / INTERIM STATUS AND VIOLATIONS OF TSD REQUIREMENTS**

1. Hazardous waste Tank System Requirements – Subchapter J

A large quantity generator, in accordance with Mich. Admin. Code r. 299.9306(1)(a)(ii) [40 C.F.R. § 262.34(a)(1)(ii)], must comply with the following requirements in 40 C.F.R. part 265, subpart J, among other things, for tank systems used to store hazardous waste:

- Obtain a written assessment reviewed, and certified by a qualified professional engineer attesting that the tank system has sufficient structural integrity and is acceptable for storing and treating hazardous waste. See 40 C.F.R. § 265.192(a);
- Use an independent, qualified installation inspector or a qualified Professional Engineer to inspect the new tank system or component in use for (1) weld breaks; (2) punctures; (3) scrapes of protective coating; (4) cracks; (5) corrosion; (6) and other structural damage or inadequate construction or installation. See 40 C.F.R. § 265.192(b)];
- Test the new tanks and ancillary equipment (e.g., piping and pumps used to distribute hazardous waste from its point of generation to a storage or treatment tank) for tightness prior to being covered, enclosed, or placed in use. See 40 C.F.R. § 265.192(d);
- Ensure that ancillary equipment is supported and protected against physical damage and excessive stress due to settlement, vibration, expansion or contraction. See 40 C.F.R. § 265.192(e); and,
- Obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements in 40 C.F.R. § 265.192(b) – (f). See 40 C.F.R. § 265.192(g).

At the time of the inspection, a P.E.-certified assessment was available for review for hazardous waste tank T-16. An installation assessment for this tank was not available for review. Also, uncertified integrity assessments were available for the 25-gallon tanks in BR-1, 2, and 3. No integrity assessment was available for the 25-gallon tank located in the Now Pack station. None of the 25-gallon tanks had installation assessments.

2. Air Emission Standards for Tanks – Subpart CC

In accordance with Mich. Admin. Code r. 299.9306(1)(a)(i); 40 C.F.R. part 265, subpart CC [40 C.F.R. §§ 262.34(a)(1)(ii); 265.1085(c)(1)], a large quantity generator who uses level 1 controls on a tank system to store hazardous waste with an average volatile organic concentration of at least 500 parts per million by weight, shall prepare and maintain a record of the maximum organic vapor pressure (MOVP) of the waste.

At the time of the inspection, a record of the MOVP of the hazardous waste managed in the waste tank system was not available for review.

### 3. Contingency Plan Requirements

A large quantity generator, in accordance with Mich. Admin. Code r. 299.9306(1)(d); 40 C.F.R. part 265, subpart D [40 C.F.R. §§ 262.34(a)(4) and 265.52(c)], must provide a description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors and state and local emergency response teams to coordinate emergency services in a facility contingency plan:

At the time of the inspection, the facility contingency plan did not include a description of arrangements made with emergency responders.

### 4. Land Disposal Restriction Notice

A large quantity generator who determines that its generated waste does not meet treatment standards for disposal must provide to the treatment or storage facility receiving the waste a notice which includes, among other things, the applicable wastewater/nonwastewater category as described in 40 C.F.R. § 268.2(d) and (f). See Mich. Admin. Code r. 299.9306(1)(d); 40 C.F.R. part 268 [40 C.F.R. §§ 262.34(a)(4); 268.7(a)(2)].

At the time of the inspection, a land disposal restriction notice associated with manifest 015704512 (dated 4-25-16) indicated that a waste was classified as "wastewater" though it also noted the total organic carbon content was greater than 1%. A second land disposal restriction notice associated with manifest 014805687 (dated 1-15-16) indicated that three of four organic wastes were classified as "wastewater." No indication was made for the fourth waste.

**Summary of license exemption requirements:** By failing to comply with the conditions for a license exemption, above, HBJ became an operator of a hazardous waste storage facility, and was required to obtain a Michigan hazardous waste storage license. HBJ failed to apply for such a license. HBJ's failure to apply for and obtain a hazardous waste storage license violated the requirements of Mich. Admin. Code. r. 299.9502(1), 299.9508 and 299.9510 [40 C.F.R. §§ 270.1(c), and 270.10(a) and (d)]. Failure to comply with a license exemption condition incorporated from Mich. Admin. Code. r. 299.9601(1)-(3) and 299.11003(1)(p) and (q) is also an independent violation of the corresponding TSD requirement..

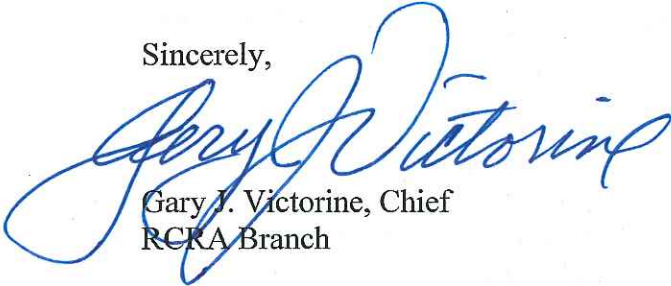
## CONCLUSION

At this time, EPA is not requiring HBJ to apply for a Michigan hazardous waste storage license so long as it immediately establishes compliance with each of the requirements for a license exemption outlined in the paragraphs, above.

According to Section 3008(a) of RCRA, EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both. Although this letter is not such an order or a request for information under Section 3007 of RCRA, 42 U.S.C. § 6927, we request that you submit a response in writing to us no later than 30 days after receipt of this letter documenting the actions, if any, which you have taken to establish compliance with all requirements listed above. You should submit your response to Brenda Whitney, U.S. EPA, Region 5, 77 West Jackson Boulevard, LR-8J, Chicago, Illinois 60604.

If you have any questions regarding this letter, please contact Ms. Whitney, of my staff, at 312-353-4796 or at [whitney.brenda@epa.gov](mailto:whitney.brenda@epa.gov).

Sincerely,



Gary J. Victorine, Chief  
RCRA Branch

Enclosure

cc: Wade O'Boyle, MDEQ ([oboylew@michigan.gov](mailto:oboylew@michigan.gov))  
Lonnie Lee, MDEQ ([Leel@michigan.gov](mailto:Leel@michigan.gov))  
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